

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

\* \* \*

ZANE M. FLOYD,

Plaintiff,

v.

CHARLES DANIELS, *et al.*,

Defendants.

Case No. 3:21-cv-00176-RFB-CLB

MINUTES OF THE COURT

DATED: December 17, 2021

THE HONORABLE **RICHARD F. BOULWARE, II**, UNITED STATES DISTRICT JUDGE

DEPUTY CLERK BLANCA LENZI COURT REPORTER PATTY GANCI/AMBER  
MCCLANE

COUNSEL FOR PLAINTIFF: David Anthony, AFD, Brad Levenson, AFD.

COUNSEL FOR DEFENDANT- NDOC: D. Randall Gilmer, Chief Deputy A.G., Douglas  
Rands, Sr. Deputy A.G., Ian Carr, Deputy A.G.

COUNSEL FOR DEFENDANT – DR. AZZAM - Nadia Ahmed, Esq.

MINUTES OF PROCEEDINGS: **EVIDENTIARY HEARING – Day 7**

Court convened at 9:11 AM.

Plaintiff Floyd is present appearing by videoconference. Also present at defense counsel table is Director Daniels. Director Gittere is present in the gallery.

The Court makes preliminary statements and hears representations from counsel regarding the order of witness testimony.

**DIRECTOR CHARLES DANIELS** is called to the stand, sworn, and testified on direct examination by Mr. Levenson. Director Daniels is then excused to resume testimony later this day.

Court recess 10:58 AM

Court reconvened at 11:31 AM

**DR. STEVE YUN, M.D.**, resumed testimony on direct examination by Mr. Gilmer. Cross examination by Mr. Levenson. Dr. Yun is then excused.

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The Court Denies [244] Supplemental Motion to Compel Compliance with Requests for Production as to Defendant Ihsan Azzam.

The Court further rules to approve the following topics of rebuttal testimony from Dr Mark Heath: 1.) whether any M.D. is qualified to assess consciousness with these specific drugs; 2.) the minimum training that a drug administrator should receive to ensure proper execution of the protocol; 3.) the distinction between deep sedation and general anesthesia; and 5.) whether unconsciousness and chest wall rigidity occur at the same time based on the same spot in the brain.

IT IS FURTHER ORDERED that the Dr. Ihsan Azzam is dismissed from this proceeding. Accordingly, IT IS FURTHER ORDERED that [221], [256] Motions for Leave to File Motions Under Seal are DENIED as moot.

Court recess 12:26 PM  
Court reconvened at 1:45 PM

**DIRECTOR CHARLES DANIELS, NDOC**, resumed testimony on direct examination by Mr. Levenson. Cross examination by Mr. Gilmer. Redirect examination by Mr. Levenson. Director Daniels is then excused.

**DEPUTY DIRECTOR WILLIAM GITTERE, NDOC**, is called to the stand, sworn, and testified on direct examination by Mr. Rands. Director Gittere is then excused to be recalled.

**DR. MARK HEATH, M.D.** is recalled to the stand and resumed testimony on direct examination by Mr. Levenson. Dr. Heath is then excused.

Court recess at 3:00 PM  
Court reconvened at 3:20 PM

**DEPUTY DIRECTOR WILLIAM GITTERE, NDOC**, resumed testimony on direct examination by Mr. Rands. Cross examination by Mr. Anthony. Redirect examination by Mr. Rands. Recross examination by Mr. Anthony. Deputy Director Gittere is then excused.

The Court ruled as to [269] Motion for the Court to Take Judicial Notice Regarding Pentobarbital Executions. The Court takes judicial notice of the fact that other states have recently used pentobarbital for public executions.

SEALED Proceedings held 4:38 PM – 4:39 PM.

The Court is adjourned at 4:49 PM.

**DEBRA K. KEMPI, CLERK**  
**U.S. DISTRICT COURT**

/s/  
BY: \_\_\_\_\_  
Blanca Lenzi, Deputy Clerk